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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/053,801
Filing Date: January 22, 2002
Appellant(s): CHANDRASHEKHAR ET AL.

Eamon J. Wall
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/15/2007 appealing from the Office action mailed 4/20/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. However, there in a typo in citing Forslow, the publication number of Forslow reference should be 2002/0069278 instead of 2005/0088977.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0095498	Chanda et al	6-2001
6,856,676	Pirot et al	10-1999
6,912,232	Duffield et al	10-1999
2002/0069278	Forslow	12-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-2,4-20, 25-30,33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chanda et al (us 2002/0095498) (hereinafter Chanda) in view of Pirot et al (us pat 6,856,676) (hereinafter Pirot) and further in view of Duffield et al (us pat 6,912,232) (hereinafter Duff).

As regarding claim 1, Pancha discloses a plurality of internet protocol (IP) services aggregation switches for communicating between respective access networks and a core network, each of said IP services aggregation switches communicating with at least one respective VPN customer user (see Pancha pg.2-3, par 0025-0026, par 0029-0030; pg.8, par 0073, gateway communicate with client via improved IAD); wherein said IP services aggregation switches communicate with said at least one VPN customer user via at least one enhanced integrated access device (EIAD) (see Pancha pg.2, par 0025-0026; pg.8, par 0073, gateway communicate with client via improved IAD); a dynamic virtual private network (VPN) manager, for providing customer network management and policy server functions (see Pancha pg.2-3, par 0029-0030, service provider provide customer with various services, allowing client to increase to decrease their bandwidth purchase); said dynamic VPN manager adapting at least one of said IP services aggregation switches and at least one of said EIADs to provide a bidirectional QoS for at least one IP flow (see Pancha pg.6, par 0055, both inward and outward direction).

Pancha does not explicitly discloses VPN having at least one of a defined quality

of service (QoS) parameter, a defined security parameter and a corresponding billing

rate, at least one of said QoS parameter and said security parameter and a user

interface enabling remote management of a VPN by a VPN customer user and user

commands provided to said dynamic VPN manager by said VPN customer user.

Pirot teaches including a user interface enabling remote management of a VPN

by a VPN customer user and user commands provided to said dynamic VPN manager

by said VPN customer user (see Pirot col.1, lines 14-39; col.10, lines 14-39; col.11,

lines 42-67).

It would have been obvious to one with ordinary skill in the art at the time the

invention was made to combine the teaching of Pirot to the system of Duff to remote

manage the VPN by a VPN customer user because it would provide faster transport

while minimizing delay, also allowing implement of various QoS levels in an effective

and manageable way (see Pirot col.1, lines 36-45).

The combination of Pancha and Pirot does not teach VPN having at least one of

a defined quality of service (QoS) parameter, a defined security parameter and a

corresponding billing rate, at least one of said QoS parameter and said security

parameter.

Duff discloses VPN having at least one of a defined quality of service (QoS)

parameter, a defined security parameter and a corresponding billing rate, at least one of

said QoS parameter and said security parameter (see Duff col.3, lines 4-51; col.4, lines

1-34, lines 64-67; col.5, lines 1-14, lines 48-61; col.10, lines 1-55; col.11, lines 22-40).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Duff to the system of Pancha-Pirot to include QoS parameter, a defined security parameter for the purpose of allowing the customer to have guarantee communication performance up to each customer profile and the customer of VPN are relieved of the burden to obtain detailed knowledge of the VPN (see Duff col.1, lines 55-63).

As regarding claim 2, Pancha-Pirot-Duff discloses said dynamic VPN manager adapts at least one of said IP services aggregation switches to provide at least one of a guaranteed QoS parameter and a guaranteed security parameter to said VPN (see Pancha pg.2-3, par 0029-0030; pg.8, par 0073).

As regarding claim 4, Pancha-Pirot-Duff discloses said dynamic VPN manager adapt at least one of said enhanced integrated access device (EIAD) to provide at least one of a guaranteed QoS parameter and a guaranteed security parameter to said VPN (see Pancha pg.2-3, par 0029-0030; pg.8, par 0073).

As regarding claim 5, Pancha-Pirot-Duff discloses wherein said QoS parameter comprises at least one of a bandwidth parameter, a jitter parameter and a delay parameter (see Pancha pg.2-3, par 0029-0030; pg.8, par 0073).

As regarding claim 6, Pancha-Pirot-Duff discloses security parameter comprises
at least one of an encryption parameter, an authentication parameter and a filtering
parameter (Pancha pg.2-3, par 0029-0030; pg.8, par 0073).

As regarding claim 7, Pancha-Pirot-Duff discloses VPN supports at least one of
an interactive gaming application and a conferencing application (see Pirot col.1, lines
49-67; col.2, lines 1-38). The same motivation was utilized in claim 1 applied equally
well to claim 7.

As regarding claim 8, Pancha-Pirot-Duff discloses said dynamic VPN manager is
responsive to a user command to establish an application profile for a VPN, said
application profile defining at least one of a QoS parameter, a security parameter and a
corresponding billing rate for said VPN during at least one time period, said dynamic
VPN manager adapting said at least one of a QoS parameter and a security parameter
of said VPN according to said application profile (see Pirot col.5, lines 41-67; col.6, lines
46-67; col.7, liens 1-14; col.11, lines 42-67; col.14, lines 50-65; col.16, lines 36-48,
manager provide interface for the customer to perform network management function
such as configuring service parameter, SLA). The same motivation was utilized in claim
1 applied equally well to claim 8.

As regarding claim 9, Pancha-Pirot-Duff discloses wherein a command

received from a the VPN customer user comprises a user selection of one of a plurality

of VPNs to join (see Pirot col.5, lines 41-67; col.6, lines 46-67; col.7, liens 1-14; col.11,

lines 42-67; col.14, lines 50-65; col.16, lines 36-48, manager provide interface for the

customer to perform network management function such as configuring service

parameter, SLA). The same motivation was utilized in claim 1 applied equally well to

claim 9.

As regarding claim 10, Pancha-Pirot-Duff discloses a command received from a

the VPN customer user comprises a user selection of one of a plurality of applications

based on VPNs to join (see Pirot col.10, lines 14-39; col.11, lines 42-67; col.14, lines

50-65; col.16, lines 36-48). The same motivation was utilized in claim 1 applied equally

well to claim 10.

As regarding claim 11, Pancha-Pirot-Duff discloses plurality of VPNs have at

least one of respective QoS requirements and security requirements, said QoS and

security requirements having corresponding billing rates (see Duff col.3, lines 4-51;

col.4, lines 1-34, lines 64-67; col.5, lines 1-14, lines 48-61; col.10, lines 1-55; col.11,

lines 22-40). The same motivation was utilized in claim 1 applied equally well to claim

11.

As regarding claim 12, Pancha-Pirot-Duff discloses said plurality of applications

have at least one of respective QoS requirements and security requirements, said QoS

and security requirements having corresponding billing rates (see Pancha pg.2-3, par

0029-0030; pg.8, par 0073).

As regarding claim 13, Pancha-Pirot-Duff discloses an enhanced application

portal (EAP), for providing said user interface to said VPN customer user and receiving

therefrom VPN administration commands adapted to configure said VPN (see Pirot

col.10, lines 14-39; col.11, lines 42-67; col.14, lines 50-65; col.16, lines 36-48, provide

an interface for the user to perform network management function such as configuring

service parameter); a policy server, for communicating configuration parameters to

network elements providing said VPN, said network configuration parameters

determined according to VPN administration commands and profiles associated with

said VPN administration commands (see Pirot col.6, lines 62-67 to col.7, lines 1-14;

col.9, lines 50-67; col.8, lines 3-40; service management subsystem provide quality

service policy to user base on SLA); and a directory server, for storing VPN topology

and operational parameters and providing said VPN topology and operational

parameters to said policy server and said EAP, said VPN topology and operational

parameters adapted for being updated by said VPN customer user via said EAP (see

Duff col.3, lines 4-51; col.4, lines 1-34, lines 64-67; col.5, lines 1-14, lines 48-61; col.10,

lines 1-55; col.11, lines 22-40 storing customer profile specify qos parameter for VPN).

The same motivation was utilized in claim 1 applied equally well to claim 13.

As regarding claim 14, Pancha-Pirot-Duff discloses at least one element

management system (EMS) for managing a plurality of network elements forming said

VPN (using EMS for managing network elements is a well known concept in the

networking art).

As regarding claim 15, Pancha-Pirot-Duff discloses wherein said apparatus is

included within an internet service provider (ISP) network including said access

networks and said core network, said dynamic VPN manager being included within a

data center of said ISP (see Pancha pg.2, par 0029-0030, service provider managing

qos and sla for customer).

As regarding claim 16, Pancha-Pirot-Duff discloses VPN has associated with it a

respective name said VPN customer user being able to perform at least one of a VPN

create, VPN modify, VPN store and VPN delete, command using said VPN name (see

Pirot col.10, lines 14-39; col.11, lines 42-67; col.14, lines 50-65; col.16, lines 36-48);

said VPN modify command allows said VPN customer user to modify at least one of

said VPN's topology, QoS parameter, and security parameter (see Pirot col.5, lines 41-

67; col.6, lines 46-67; col.7, lines 1-14; col.11, lines 42-67; col.14, lines 50-65; col.16,

lines 36-48). The same motivation was utilized in claim 1 applied equally well to claim

16.

As regarding claim 17, Pancha-Pirot-Duff discloses wherein said VPN is

retrieved from storage, activated and deactivated using a corresponding VPN name

(see Duff col.3, lines 4-51; col.4, lines 1-34, lines 64-67; col.5, lines 1-14, lines 48-61;

col.10, lines 1-55; col.11, lines 22-40). The same motivation was utilized in claim 1 applied equally well to claim 17.

As regarding claims 18-20, the limitations of claims 18-20 are similar to limitations of rejected claims 1-2,4-17 therefore rejected for the same rationales as claims 1-2,4-17.

As regarding claims 25-30,33-34 the limitations of claims25-30,33-34 are similar to limitations of rejected claims 1-2,4-17 therefore rejected for the same rationales as claims 1-2,4-17.

As regarding claims 35-36, the limitations of claims 35-36 are similar to limitations of rejected claims 1-2,4-17 therefore rejected for the same rationales as claims 1-2,4-17.

Claims 21-24, 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pancha , Duff and Pirot as applied to claims 18 and 25 above and further in view of Forslow (us 2002/0069278).

As regarding claims 21, Pancha-Pirot-Duff discloses all limitations of claims 18 above but did not expressly disclose dynamic VPN manager is included within a Universal Mobile Telecommunications Services (UMTS) packet transport network, said access networks comprising Gateway Generalized Packet Radio Service support nodes (GGSNs), said user accessing said UMTS packet transport network said dynamic VPN manager causing communications with said user communication device to be routed through a GGSN geographically proximate said user communications device.

Forslow teaches dynamic VPN manager is included within a Universal Mobile Telecommunications Services (UMTS) packet transport network, said access networks comprising Gateway Generalized Packet Radio Service support nodes (GGSNs), said user accessing said UMTS packet transport network said dynamic VPN manager causing communications with said user communication device to be routed through a GGSN geographically proximate said user communications device (pg.1, par 20-24).

It would have obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Forslow to the system of Pancha-Pirot-Duff because having the VPN manager included within UMTS would enable the mobile users to roam between access networks with little or no intervention (see Forlsow pg.2, par 27).

As regarding claim 22, Pancha-Pirot-Duff-Forslow disclosed determination of geographic location is made during an authentication procedure (see Forslow pg.1, par

3-4, pg.2, par 27-30). The same motivation was utilized in claim 21 applied equally well to claim 22.

As regarding claim 23, Pancha-Pirot-Duff-Forslow disclosed apparatus is included within a CDMA-2000 packet transport network, said access networks comprising home agents, said user accessing said CDMA-2000 packet transport network with a communications device nominally assigned to a home agent (see Forslow pg.1 par 5-10, page 2, par 27-30); said dynamic VPN manager causing communications with said user communication device to be routed through a home agent geographically proximate said user communications device (see Forslow pg.1 par 5-10, page 2, par 27-30). The same motivation was utilized in claim 21 applied equally well to claim 23.

As regarding claim 24, the limitation is similar to claim 22, therefore rejected for the same rationale as claim 22.

As regarding claim 31, Pancha-Pirot-Duff-Forslow disclosed VPN supports at least one application having associated with it at least one of respective QoS requirements and security requirements, said QoS and security requirements having corresponding billing rates (see Duff col.3, lines 4-51; col.4, lines 1-34, lines 64-67; col.5, lines 1-14, lines 48-61; col.10, lines 1-55; col.11, lines 22-40).

As regarding claim 32, Pancha-Pirot-Duff-Forslow disclosed at least one of an interactive gaming application and a conferencing application (see Pirot col.5, lines 41-67; col.6, lines 46-67; col.7, lines 1-14; col.11, lines 42-67; col.14, lines 50-65; col.16, lines 36-48). The same motivation was utilized in claim 18 applied equally well to claim 32.

(10) Response to Argument

First, appellant argues on the 112 2nd rejections of claims 1-17.

In response to the 112 2nd arguments, the arguments are persuasive therefore the rejections under 35 U.S.C. § 112, 2nd paragraph of claims 1-17 are withdrawn.

Second, as regarding claims 1-2, 4-17, 18-20, 25-30, 33-34, 35-36, 21-24, 31-32 appellant argues that Chanda does not teach, " VPN manager adapting at least one of said IP services aggregation switches and at least one of said EIAD to provide a bidirectional QoS for at least one IP flow".

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.

1986).

Chanda discloses a service provide (service provider corresponds to the VPN

manger) using gateway device (gateway device corresponds to the switch) and the IAD

(IAD corresponds to EIAD) to provide clients with numerous service features (see

Chanda pg.2, para 0029). According to the applicant's disclosure page 10, lines 9-20,

the EIAD acts as an intermediary between the ISP and the clients, EIAD also acts as a

converter. Chanda discloses AID act as an intermediary between the ISP and the

clients and act as a converter (see Chanda pg.3, par 0033), therefore the IAD of

Chanda corresponds to the claimed EIAD.

T   The limitation "to provide a bidirectional QoS..." is merely an intended result of

the above limitations therefor, it is not given weight (see MPEP 2111.04). Even if the

examiner were to give weight to the above limitation, the prior art Chanda still has

support for the limitation. Chanda discloses the class of policy (corresponds to QoS)

between the clients and the service provider (see Chanda pg.5, para 0047), and the

traffic shaper being utilized to control the traffic in both directions (bidirectional) inward

and outward between the client and the service provider according to the class of policy

(see Chanda pg.6, para 0055).Thus, Chanda does meet the limitation "VPN manager

adapting at least one of said IP services aggregation switches and at least one of said

EIAD to provide a bidirectional QoS for at least one IP flow" and the rejections should

be affirmed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

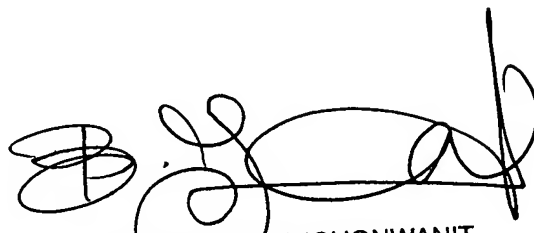Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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